

The concept of the crime of health care workers negligence in the performance of their professional duties

Sadikova Yorkinoy Salijonovna¹

¹Candidate of Legal Sciences SamMI, Department of Social Sciences and Humanities

ABSTRACT

This article describes the concept of the crime of negligence of health care workers, its symptoms. The article also analyzes the views and opinions of scientists.

Keywords: Occupation, human life, health, duties, inadequate performance, crime, punishment, responsible persons, reforms, law.

1.INTRODUCTION

In order to build a democratic state governed by the rule of law and a civil society in Uzbekistan, radical reforms are being carried out through promising programs. As a result, today in our country the foundations of a humane democratic state based on the rule of law are clearly visible. Undoubtedly, one of the great achievements of this nation is the expression of its will. In order to achieve such a great goal, comprehensive judicial reforms and a system of legal incentives for the implementation of laws for the individual are being created in our country. Human life and health are protected by criminal law. Inadequate performance of professional duties is also an act that endangers human life and health, and this crime is highly socially dangerous because it is committed by those who need to protect the health and life of citizens is calculated, because a person entrusts his health and life to those responsible for it. However, bodily injury or death as a result of improper performance of professional duties significantly increases the level of social risk of this act. This act also violates the order relating to the relevant service at the same time.

Failure to perform or improper performance of their professional duties will also damage the reputation of the relevant enterprise, organization and institution. This problem is especially important in today's world, where scientific and technological progress and the growing demands on the professionalism of specialists. As noted by the President of the Republic of Uzbekistan Sh.M.Mirziyoev, "Over the past two years, we have adopted 90 laws and more than 2,000 decrees and resolutions aimed at realizing the constitutional rights and freedoms of our citizens, improving living conditions, solving problems accumulated over the years" [1].

2.MAIN PART

The ultimate goal of a number of reforms in the criminal justice system is based on the recognition of human rights as a supreme value. At the same time, the Constitution of the Republic of Uzbekistan recognizes the highest value of human life, in particular, the human rights system enshrines the right to life (Article 24), the right to liberty and security (Article 25). In accordance with Article 16 of the Law of the Republic of Uzbekistan "On Public Health" No. 265-I of August 29, 1996, citizens have the right to medical and social assistance in case of illness, disability and other cases [2] failure of a person who is obliged to perform professional duties to perform such duties without a valid reason may result in death or serious bodily injury, which increases the social risk of this crime. It should also be noted that in recent years, the number of deaths and injuries caused by non-performance of professional duties has increased. In addition, in practice, forensic agents face substance competition in the qualification of these crimes, and in many cases there are some difficulties in correctly understanding the norms of criminal law, the blanketness of the norm causes various difficulties. Therefore, it is important to combat this socially dangerous act by criminal means. The relevance and scientific and practical significance of this topic is determined by these circumstances. Article 116 of the current Criminal Code of the Republic of Uzbekistan establishes criminal liability for improper performance of professional duties. The first part of this article provides for liability for moderate or severe bodily injury as a result of a person's failure to perform or improper performance of his professional duties due to negligence or dishonesty in his profession. The second part of this article establishes liability for causing moderate or severe bodily injury to a person who is obliged to provide assistance to a patient in accordance with the law or special regulations for failure to provide such assistance without a valid reason. Liability is provided for in the third part of the same article, as the acts provided for in the first or second part of this article caused the death of a person through negligence. Finally, the fourth part of Article 116 of the Criminal Code of the Republic of Uzbekistan

establishes criminal liability for the acts provided for in the first or second part of this article, which caused the death of people or other serious consequences through negligence.

At this point, we think it is necessary to dwell on the basic concepts of this crime. According to the Uzbek dictionary, "a profession is a type of activity that requires certain experience and training; profession "[3]. "A task is a goal, a purposeful work that must be done and solved" [4]. Professional tasks are the tasks that need to be performed and solved based on the activities of the person, his profession. Duty stems mainly from rules, ethical norms, and obligation often stems from contracts and agreements; the duty lasts from the birth of the person to the end of his life, and the obligation is during the term of the contract; as well as the duty is determined by the state and society and its performance is required. If we apply the above to Article 116 of the Criminal Code of the Republic of Uzbekistan, criminal liability may arise in case of violation of professional duties and responsibilities. Because duty is a moral concept that defines a person's obligation to an individual, family, community, nation, homeland, and it reflects a person's inner experiences, a complex state of mind that is not controlled from the outside. Also, the duties are clear and limited in scope, which may include military service, parenting, childhood duties, and so on. Failure to do so may result in criminal liability under the relevant articles of the criminal law, depending on the circumstances of the case.

It is also necessary to differentiate between the concepts of professional duty and responsibility. These two concepts are closely related to each other and differ according to the basis (source) of their occurrence. Professional obligation, as a rule, arises on the basis of a civil contract, agreement; professional duty arises on the basis of an employment contract within the scope of the individual's specific professional activity. That is, if a certain case is imposed on a person on the basis of a civil law contract, and as a result of his improper performance of his duties, the consequences provided for in Article 116 of the CC, the obligation is violated. In particular, if a kindergarten teacher is a subject of a crime under Article 116 of the Criminal Code of the Republic of Uzbekistan, he did not perform his professional duties properly, and in the same situation the nurse (a person hired to care for a child in civil law) did not perform his professional duties, liability occurs on the basis of the above article if the intended consequence occurs. However, the differentiation of these concepts or the study of their interrelationships has no effect on the qualification of a crime.

It should be noted that the failure of an official to perform his duties is not covered by Article 116 of the CC, but their actions are qualified by the articles of the Special Part of the CC on official crimes. In addition to the above, it is necessary to distinguish between the concepts of "law" or "special rules" used in the disposition of the second part of Article 116 of the CC. Law of the Republic of Uzbekistan 2012 According to Article 8 of the Law "On normative legal acts" adopted in the new edition on December 12, "the laws of the Republic of Uzbekistan regulate the most important and stable social relations and are adopted by the Oliy Majlis of the Republic of Uzbekistan or by referendum" [5]. Special rules, on the other hand, consist of rules governing a particular type of activity, defined in the by-laws, internal regulations, charters, guidelines, etc. of enterprises, institutions and organizations. In the application of Article 116 of the CC, in each individual case it must be determined exactly which law and (or) which paragraph of the by-law is violated. According to Sh. Khaydarov, according to Article 116 of the Criminal Code of the Republic of Uzbekistan, it is a question of "professional duties" and it can be concluded that the violation of professional duties is required to assess the act as a crime. However, given that professional duties can be understood as two or more duties, the natural question arises as to whether the act cannot be qualified under this article if the offender violates one professional duty and as a result has appropriate consequences. In order to solve this problem and to ensure the accuracy and correct application of the law, it is expedient to change the sentence "duties" in the title of Article 116 of the Criminal Code to "duties" [6].

The social danger of the crime of improper performance of professional duties is manifested in the fact that the culprit's irresponsible, careless approach to his profession undermines the interests of the individual, society and the state.

When a medical professional is suspected of negligent death due to negligence, the main task of the investigation and forensic examination is to determine whether the death or serious injury is directly related to the actions or omissions of the medical staff [7]. According to Sh.D. Khaydarov, in order to comprehensively address the problem of employee inadequate performance of their professional duties and to prevent such mistakes in future activities, the employee must: first, fully document their activities and results based on the characteristics of their profession; secondly, that he strictly adheres to the internal requirements established at all stages of his activity and which are obligatory in his activity in order to prove that he has performed the necessary procedures in a timely manner; thirdly, to provide the person with full information about his / her activity and its results based on the characteristics of his / her profession [8]. In the event that a person's

negligence or dishonesty in the performance of his duties results in moderate or severe bodily injury or death, it must be ascertained whether there is a causal link between the act and its consequences. An employee who has not performed his / her duties properly in connection with the profession in which the crime was committed shall be subject to criminal liability. Inadequate performance of professional duties by a person usually means failure of special entities to perform their duties in the field of assistance or services. It should be noted that the basis for finding that the act in question has a criminal element is the existence of a causal link between the infliction of serious or moderate injuries to the person and the act (omission) committed.

3.CONCLUSION

This, in turn, shows that the crime is caused by disrespect for the law and lack of legal culture. In this regard, as noted by the President of the Republic of Uzbekistan Sh.M.Mirziyoev, "Respect for the law is formed on the basis of legal consciousness and culture of our people. That is, while some people obey the law out of fear of punishment, others respect the law according to the upbringing they received as children. ... We must form a legal culture in our society in accordance with which the observance of the Constitution and laws, respect for the rights and freedoms, honor and dignity of others must become a daily rule and habit, not an obligation. In short, our citizens should be more interested in obeying the law than breaking it. "[9] Legal consciousness is an important component of social consciousness, which is determined by the level of development of society. is a set of images [10].

References:

- 1.Mirziyoev Sh.M. An educated generation is a guarantee of a great future, an entrepreneurial people is a guarantee of a prosperous life, and friendly cooperation is a guarantee of development: a speech at the ceremony dedicated to the 26th anniversary of the Constitution of the Republic of Uzbekistan www.uza.uz - National News Agency of Uzbekistan
- 2.Bulletin of the Oliy Majlis of the Republic of Uzbekistan 1996, No 9, Article 128.
- 3.Annotated dictionary of the Uzbek language. 5 volumes. Volume 2 / Edited by A.Madvaliev - Tashkent: "National Encyclopedia of Uzbekistan" State Scientific Publishing House, 2006 - B 328.
- 4.Annotated dictionary of the Uzbek language 5 volumes. Volume 1 / Edited by A.Madvaliev - Tashkent: "National Encyclopedia of Uzbekistan" State Scientific Publishing House, 2006 - B 433.
- 5.Collection of Legislation of the Republic of Uzbekistan, 2012, No. 52, Article 583.
- 6.Khaydarov Sh.D. Inadequate performance of professional duties: criminal-legal and criminological aspects / Yurid.fan. Ph.D. (PhD) dissertation - Toshkent, 2019 - Б 21.
- 7.Bondarenko D.V. K voprosu o yuridicheskoy otvetstvennosti meditsinskix rabotnikov // Meditsinskoе pravo. 2006. №4.
- 8.Khaydarov Sh.D. Inadequate performance of professional duties: criminal-legal and criminological aspects / Yurid.fan. Ph.D. (PhD) dissertation - Toshkent, 2019 - Б 41.
- 9.Mirziyoev Sh.M. An educated generation is a guarantee of a great future, an entrepreneurial people is a guarantee of a prosperous life, and friendly cooperation is a guarantee of development: a speech at the ceremony dedicated to the 26th anniversary of the Constitution of the Republic of Uzbekistan // www.uza.uz - Website of the National News Agency of Uzbekistan.
10. Sadikova Yo.S. The role of democratic values in the formation of legal consciousness. Monograph. Samarkand: SamSU edition, 2012 - P 100.